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**UNITED STATES DISTRICT
COURT FOR THE DISTRICT
OF WYOMING**

STATE OF WYOMING,
STATE OF MONTANA, and
STATE OF NORTH DAKOTA,

Petitioners,

v.

UNITED STATES DEPARTMENT OF
THE INTERIOR; SALLY JEWELL, in her
official capacity as Secretary of the Interior;
UNITED STATES BUREAU OF LAND
MANAGEMENT; and NEIL KORNZE, in
his official capacity as Director of the
Bureau of Land Management,

Respondents.

Case No. 16-cv-00285-SWS

NORTH DAKOTA'S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65, the State of North Dakota respectfully requests the Court issue an order enjoining the November 18, 2016 final rulemaking of the Department of the Interior’s Bureau of Land Management (“BLM”) entitled “Waste Prevention, Production Subject to Royalties, and Resources Conservation: Final Rule.” 81 Fed. Reg. 83,008 (Nov. 18, 2016) (to be codified at 43 C.F.R. Parts 3100, 3160 and 3170) (“Final Rule”). The Final Rule infringes upon North Dakota’s comprehensive regulation of oil and gas activities—including oil and natural gas resource conservation—and air quality within its borders. If it is allowed to go into effect, the Final Rule will irreparably harm North Dakota’s sovereign interests and its economy during the pendency of this litigation. Moreover, North Dakota is likely to prevail on the merits of its Petition for Review because the Final Rule exceeds BLM’s statutory authority and therefore violates the Administrative Procedure Act (“APA”). *See* 5 U.S.C. § 706(2)(c). Both the balance of harms and the public interest favor the instant motion.

In support of its Motion, North Dakota submits its Memorandum in Support of North Dakota’s Motion for Preliminary Injunction, along with the following declarations: (1) Declaration of Lynn D. Helms, Director of the North Dakota Industrial Commission, Department of Mineral Resources; and (2) Declaration of L. David Glatt, Chief of the Environmental Health Section of the North Dakota Department of Health.

Additionally, North Dakota respectfully provides notice to the Court that it plans to call witnesses at oral argument on January 6, 2017. Having orally moved for additional argument time during the Court’s November 30th status conference—and the Court having granted North Dakota’s oral motion—North Dakota respectfully requests at least 45 minutes to argue its Motion, not to include time for cross examination. North Dakota also seeks to coordinate with the other petitioners to minimize overlap and delay in presenting argument.

Accordingly, for the reasons set forth herein and in the accompanying Memorandum, North Dakota respectfully moves the Court to grant its Motion for Preliminary Injunction pending the resolution of the Petitioners' challenges on the merits.

Respectfully submitted this 5th day of December, 2016.

/s/ Paul M. Seby

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**ATTORNEYS FOR PETITIONER-
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of (1) State of North Dakota's Motion for Preliminary Injunction; (2) Memorandum in Support of State of North Dakota's Motion for Preliminary Injunction; (3) Declarations of Lynn D. Helms and L. David Glatt in Support of State of North Dakota's Motion for Preliminary Injunction; and (4) Proposed Order Granting North Dakota's Motion for Preliminary Injunction were served via CM/ECF to the parties listed below on December 5, 2016.

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